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**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**THOMAS ELZIE TACKETT**  
**4205 West Tropicana Road**  
**Las Vegas, NV 89103**

**Registered Nurse License No. 703855**

**RESPONDENT**

Case No. 2012-478

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about February 22, 2012, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2012-478 against Thomas Elzie Tackett (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about May 23, 2007, the Board of Registered Nursing (Board) issued Registered Nurse License No. 703855 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and expired on September 30, 2010 and has not been renewed.

3. On or about February 22, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2012-478, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136 and/Title 16, California Code of Regulation, section 1409.1, is required to be reported and maintained with the Board, which was and is:

4205 West Tropicana Road

Las Vegas, NV 89103.

1           4.     Service of the Accusation was effective as a matter of law under the provisions of  
2     Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
3     124.

4           5.     On or about March 16, 2012, the Certified Mail documents were returned, and on  
5     March 8, 2012, the First Class Mail documents were returned, both marked by the U.S. Postal  
6     Service, "Attempted- Not Known ." The address on the documents was the same as the address  
7     on file with the Board. Respondent failed to maintain an updated address with the Board and the  
8     Board has made attempts to serve the Respondent at the address on file. Respondent has not made  
9     himself available for service and therefore, has not availed himself of his right to file a notice of  
10    defense and appear at hearing.

11          6.     Business and Professions Code section 2764 states:

12                The lapsing or suspension of a license by operation of law or by order or decision of  
13    the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive  
14    the board of jurisdiction to proceed with an investigation of or action or disciplinary proceeding  
15    against such license, or to render a decision suspending or revoking such license.

16          7.     Government Code section 11506 states, in pertinent part:

17                (c) The respondent shall be entitled to a hearing on the merits if the respondent files a  
18    notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation  
19    not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's  
20    right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

21          8.     Respondent failed to file a Notice of Defense within 15 days after service of  
22    the Accusation upon him, and therefore waived his right to a hearing on the merits of Accusation  
23    No. 2012-478.

24          9.     California Government Code section 11520 states, in pertinent part:

25                (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the  
26    agency may take action based upon the respondent's express admissions or upon other evidence  
27    and affidavits may be used as evidence without any notice to respondent.

10. Pursuant to its authority under Government Code section 11520, the Board after having reviewed the proof of service dated February 22, 2012, signed by Aaron Hanson, and the returned envelopes finds Respondent is in default. The Board will take action without further hearing and, based on Accusation No. 2012-478 and the documents contained in Default Decision Investigatory Evidence Packet in this matter which includes:

Exhibit 1: Pleadings offered for jurisdictional purposes; Accusation No. 2012-478, Statement to Respondent, Notice of Defense (two blank copies), Request for Discovery and Discovery Statutes (Government Code sections 11507.5, 11507.6 and 11507.7), proof of service; and if applicable, mail receipt or copy of returned mail envelopes;

Exhibit 2: License History Certification for Thomas Elzie Tackett, Registered Nurse  
License No. 703855;

Exhibit 3: Affidavit of Kami Pratab;

Exhibit 4: Out of State Discipline (Ohio and Nevada Boards of Nursing);

Exhibit 5: Declaration of costs by Office of the Attorney General for prosecution of Case No. 2012-478.

The Board finds that the charges and allegations in Accusation No. 2012-478 are separately and severally true and correct by clear and convincing evidence.

11. Taking official notice of Certification of Board Costs and the Declaration of Costs by the Office of the Attorney General contained in the Default Decision Investigatory Evidence Packet, pursuant to the Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement in connection with the Accusation are \$1,100.00 as of April 9, 2012.

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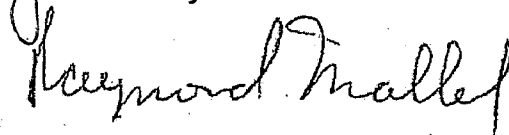
ORDER

IT IS SO ORDERED that Registered Nurse License No. 703855, heretofore issued to Respondent Thomas Elzie Tackett, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on September 26, 2012

It is so ORDERED August 27, 2012



Board of Registered Nursing  
Department of Consumer Affairs  
State of California

Attachment:

Exhibit A: Accusation No. 2012-478.

# Exhibit A

Accusation No. 2012-478

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 LESLIE E. BRAST  
Deputy Attorney General  
4 State Bar No. 203296  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5548  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

7  
8 LYDIA ZANE, Senior Legal Analyst  
Telephone: (415) 703-5573  
Facsimile: (415) 703-5480  
9

10 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2012-478**

13 **THOMAS ELZIE TACKETT**  
14 **4205 West Tropicana Road**  
**Las Vegas, NV 89103**

**A C C U S A T I O N**

15 **Registered Nurse License No. 703855**

16 Respondent.  
17

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant), brings this Accusation solely in her  
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board),  
23 Department of Consumer Affairs.

24 2. On or about May 23, 2007, the Board issued Registered Nurse License Number  
25 703855 to Thomas Elzie Tackett (Respondent). The Registered Nurse License expired on  
26 September 30, 2010, and has not been renewed.

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1 “(b) Any device that bears the statement: ‘Caution: federal law restricts this device to sale  
2 by or on the order of a \_\_\_\_\_,’ ‘Rx only,’ or words of similar import . . .

3 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
4 prescription or furnished pursuant to Section 4006.”

5 9. **Morphine** is a Schedule II controlled substance pursuant to Health and Safety Code  
6 section 11055, subdivision (b)(1)(L), and a dangerous drug within the meaning of Code section  
7 4022. Morphine is a powerful opiate analgesic medication.

8 10. **Ativan**, also referred to as Lorazepam, is a Schedule IV controlled substance pursuant  
9 to Health and Safety Code section 11057, subdivision (d)(16) and a dangerous drug within the  
10 meaning of Code section 4022. Ativan is used for the short-term treatment of anxiety, insomnia,  
11 acute seizures, and sedation.

12 11. **Diazepam** (Valium) is a psychotropic drug for the management of anxiety disorders  
13 or for the short-term relief of the symptoms of anxiety. It is a Schedule IV controlled substance  
14 as defined by section 11057(d)(9) of the Health and Safety Code and a dangerous drug within the  
15 meaning of Code section 4022.

16 12. **Midazolam** is a benzodiazepine, used for preoperative sedation, particularly useful  
17 when anxiety relief and diminished recall are desired. Midazolam is a Schedule IV controlled  
18 substance as designated by Health and Safety Code section 11057(d)(21), and a dangerous drug  
19 within the meaning of Code section 4022.

20 13. **Oxycodone** is a semisynthetic narcotic analgesic with multiple actions qualitatively  
21 similar to those of morphine. It is a dangerous drug as defined in section 4022, a schedule II  
22 controlled substance and narcotic as defined by section 11055, subdivision (b)(1)(M) of the  
23 Health and Safety Code.

24 14. **Tramadol hydrochloride** (Ultram, Tramal) is a centrally acting synthetic opioid  
25 analgesic used in treating severe pain.

#### 26 COST RECOVERY

27 15. Code section 125.3 provides, in pertinent part, that the Board may request the  
28 administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

3 FIRST CAUSE FOR DISCIPLINE  
4 (Unprofessional Conduct - Out of State Discipline)  
5 (Bus. & Prof. Section 2761, subd. (a)(4))

6 16. Respondent is subject to disciplinary action under Code section 2761, subdivision  
7 (a)(4), in that on or about March 20, 2009, in a disciplinary action before the Ohio Board of  
8 Nursing (Ohio Board), concerning License Number RN-270001, issued to Thomas E. Tackett, the  
9 Ohio Board entered a Consent Agreement by which Respondent agreed to the indefinite  
10 suspension of his license, stayed, subject to probationary terms, conditions and limitations for a  
11 period of two years. The circumstances underlying the Ohio Board's disciplinary action are as  
12 follows:

13 a. While employed in the Intensive Care Unit at University Hospital East located in  
14 Columbus, Ohio, a review of the facility's medication administration records for December 2005  
15 and January 2006 revealed that Respondent failed to document 40% of the following medications:  
16 Midazolam, Lorazepam, Hydromorphone, Oxycodone, Diazepam and Morphine.

17 b. On or about February 7, 2006, during a personnel review at University Hospital East,  
18 two full vials and one partially used vial of Haldol and one full vial of Ativan were found in  
19 Respondent's backpack.

20 c. In multiple instances during the time period from December 2005 to January 2006,  
21 Respondent removed Ativan from Hospital East's medication dispensing system and failed to  
22 chart administration of the medication.

23 d. On or about January 18, 2006, Respondent removed Tramadol twice from University  
24 Hospital East's medication dispensing system and failed to chart administration of the  
25 medication.

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SECOND CAUSE FOR DISCIPLINE  
(Unprofessional Conduct - Out of State Discipline)  
(Bus. & Prof. Section 2761, subd. (a)(4))

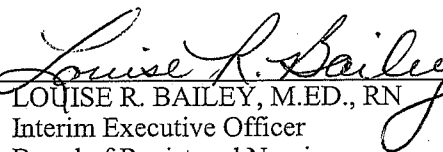
17. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)(4), in that on or about May 14, 2009, in a disciplinary action before the Nevada State Board of Nursing (Nevada Board), regarding Professional Nurse's License Number RN54381, issued to Respondent, the Nevada Board entered a Decision and Order restricting licensure for a minimum period of 2 (two) years with terms and conditions. The Nevada Board's disciplinary action was based on Respondent's acts and admissions subjecting his license to practice as a Registered Nurse with the Ohio Board of Nursing, as set forth in paragraph 16, above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 703855, issued to Thomas Elzie Tackett;
2. Ordering Thomas Elzie Tackett to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: February 22, 2012

  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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